

SECRET

**OPINIONS
OF THE
OFFICE OF GENERAL COUNSEL
CENTRAL INTELLIGENCE AGENCY**

VOLUME XXXII

**SEPT. - DEC.
(1975)**

OGC/LEGL Has Reviewed

DOJ review(s) completed.

DOE (RIF) review(s) completed.

State Department review completed

NSC review(s) completed.

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NUCLEAR REGULATORY COMMISSION

WASHINGTON, D. C. 20555

AUG 26 1975

John S. Warner, Esq.
General Counsel
Central Intelligence Agency
Washington, D. C. 20505

Dear Mr. Warner:

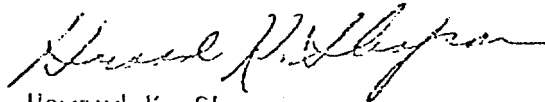
Your letter of July 17, 1975 sought clarification of the Nuclear Regulatory Commission's procedures for protecting national security information or material provided to NRC by Executive Branch Agencies.

As indicated to you in my letter of July 9, 1975, classified information received by the NRC from an Executive Branch Agency will be protected in accordance with the requirements of applicable Executive Orders - whether or not a public hearing is involved. Further, the Commission has authorized me to extend the following commitment. Should such information be deemed relevant to a proceeding and/or be requested by a party to the proceeding, including an intervenor, the NRC will seek guidance from the originating agency whether:

- a. the material or information can be declassified, or;
- b. the material or information can be released to cleared requesting parties, or;
- c. the material or information can be provided in a non-classified form, or;
- d. the material or information cannot be released.

If the originating agency determines that access to the requested intelligence community information should not be granted, we understand from your letter that the Director of Central Intelligence or a senior official in the originating agency would furnish the NRC with a finding to that effect, together with the supporting reasons. NRC will not authorize access to national security information or material provided to NRC by an Executive Branch Agency where such a finding, together with the reasons therefor, has been furnished to the NRC.

Sincerely,



Howard K. Shapar
Executive Legal Director



USIB-M-698

11 July 1975

1. Nuclear Regulatory Commission

Before addressing the regular agenda items Mr. Colby advised that he had received a letter from the Nuclear Regulatory Commission (NRC) [attached hereto] requesting assistance from the intelligence community to provide support in such areas as methods used by other powers to protect nuclear material, threats from international terrorist organizations, etc. Mr. Colby said that the new NRC was potentially an important consumer of foreign intelligence information and that we needed to develop procedures for satisfying NRC needs. This was not intended to support domestic regulatory cases being considered by the NRC.

The Chairman noted that discussions were underway to work out satisfactory security arrangements and an agreement regarding accountability of intelligence data to NRC personnel. He suggested that, at least for the short term, the point of contact for the NRC should be the Joint Atomic Energy Intelligence Committee (JAEIC) and its Chairman, Mr. Wally Howard. Mr. Colby said that with Board concurrence he would respond affirmatively to the NRC after completion of the above mentioned arrangements. A copy of Mr. Colby's response will be circulated to the Board for information.

Following a short discussion the Board posed no objection to proceeding with arrangements to provide foreign intelligence support to the NRC.

2. USIB-D-46.7/22, 26 June 1975

(Limited distribution through restricted channels)

(A record of the Board's discussion and action on this subject is contained in Memorandum for Holders-1 of USIB-D-46.7/22, 11 July 1975, limited distribution through restricted channels.)

3. Brazil

(NIE 93-1-75)

Mr. Marengo, NIO for Latin America, presented this estimate to the Board and introduced Dr. David Smith of the Department of State as the drafter.

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THE WHITE HOUSE
WASHINGTON

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Executive Registry

75-8594

September 8, 1975

MEMORANDUM FOR:

HENRY A. KISSINGER

FROM:

PHILIP BUCHEN *P.W.B.*

SUBJECT:

Requirements of Section 662(a),
The Foreign Assistance Act of
1961, as Amended, Concerning
Expenditures for Certain CIA
Operations

1. The Statutory Provision

Section 662 of the Foreign Assistance Act of 1961, as Amended (22 U.S.C.A., Sec. 2422) reads in its entirety as follows:

- (a) No funds appropriated under the authority of this chapter or any other Act may be expended by or on behalf of the Central Intelligence Agency for operations in foreign countries, other than activities intended solely for obtaining necessary intelligence, unless and until the President finds that each such operation is important to the national security of the United States and reports, in a timely fashion, a description and scope of such operation to the appropriate committees of the Congress, including the Committee on Foreign Relations of the United States Senate and the Committee on Foreign Affairs of the United States House of Representatives.
- (b) The provisions of subsection (a) of this section shall not apply during military operations initiated by the United States under a declaration of war approved by the Congress or an exercise of powers by the President under the War Powers Resolution.

- 2 -

The required finding by the President(a) When it must be made

The statute makes a finding by the President a condition precedent to the expenditure of funds for an operation that is covered by the statute. Therefore, no funds should be expended until after the President has made his finding.

(b) What the finding should be

The President must find for each operation that it is "important to the national security of the United States."

(c) How the finding should be made

As a matter of good practice, it should be in writing, signed by the President and should be supported by documents which the President has reviewed and which give a description and scope of the proposed operation and give a basis for determining that the proposed operation is important to the national security of the United States.

(d) Dissemination of finding

There appears to be no requirement under Section 662 (a) that the President's written finding must be furnished to the appropriate Committees of the Congress; only that "a description and scope" of the operation covered by the finding be reported to such Committees. Before Section 662 was added to the Act in 1974, there was a more general provision about Presidential findings, namely Section 654 (22 U.S.C.A. Sec. 2414). It relates only to cases where the "President is required to make a report ... concerning any finding or determination" under the Act. Then the following provision appears in Subsection (c) in respect to such a Presidential finding.

"[It] shall be published in the Federal Register as soon as practicable after it has been reduced to writing and signed by the President. In any case in which the President concludes that such publication would be harmful to the national

security of the United States, only a statement that a determination or finding has been made by the President, including the name and section of the Act under which it was made, shall be published."

This section was tailored to the situation where the finding itself was to be reported to Congress, and it does not cover the situation under Section 662 where the reporting requirements deal not with the finding itself or the basis on which it has been made, but with a description of the operation which follows from the finding.

Moreover, in the case of findings under the new Section 662 even a public disclosure that a finding was made under that section would itself be harmful to the national security and would vitiate the President's authority to have the CIA carry out covert operations. Public notice that a finding has been made in the context of known developments or events within a particular country would inevitably allow inferences as to the location and purpose of the planned covert operation, even though the published notice did not by itself disclose such information.

It is evident from the legislative history of Section 662 that it was a sui generis provision, that it was conceived and adopted without consideration of any other provisions in the Act, that its purpose was to provide information for only the jurisdictional committees concerned with CIA operations and the respective Senate and House Committees on Foreign Relations and on Foreign Affairs, and that even for the particular committees to be involved "the quality or the detail or the minutia" of the report would be up to the President (Congressional Record of October 2, 1974, p. S.18063-5; House Conference Report 93-1610 of December 17, 1974 on S. 3394 at pp. 42-3). In the Conference Report, it was stated:

"The committee of conference agreed that strict measures should be taken to insure maximum security of the information submitted to the Congress pursuant to this provision."

Such measures would be in vain if the existence of a covert operation became known through a publication requirement of any kind as provided in Section 654.

Therefore, it is concluded that the purpose and effect of Section 654 conflicts with Section 662, with the intent of Congress when it enacted the latter section, and with the right and authority of the President in the protection of national security and the conduct of foreign affairs. Consequently, there exists no dissemination or publication requirement for a finding by the President under Section 662.

3. The required reports by the President to the appropriate Committees of the Congress

(a) When they must be made

Section 662 was added in 1974 to the Foreign Assistance Act.

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For purposes of demonstrating good faith compliance with these reporting requirements, the report of each operation

should be made with due and deliberate speed. The Chairman of each Committee should be notified of a finding by the President as soon as secure communication to him is possible, along with information as to the nature and location of the operation sufficient to permit the Chairman to judge how quickly he may want the "description and scope" to be reported. This method should satisfy the "timely fashion" requirement for each intended recipient of such a report, without in any way conceding that the report must precede the initiation of expenditures.

(b) The recipients of the reports

The language in Section 662 which specifies the recipients of reports is: "appropriate committees of the Congress, including the Committee on Foreign Relations of the United States Senate and the Committee on Foreign Affairs of the United States House of Representatives." The history of the legislation indicates that beyond the two committees expressly included, the other committees (or subcommittees) were at the time of enactment intended to be "the present Armed Services Committees and the present Subcommittees handling the oversight of matters of intelligence and the CIA," the latter being subcommittees of the respective Senate and House Appropriations Committees (Congressional Record of October 2, 1974, p.5, S.18064). Since then the Senate and House have each created Select Committees with authority which includes investigation of the extent of, and necessity for, covert intelligence activities in foreign countries. However, these are committees of limited duration which have not supplanted in oversight of intelligence matters the previously established and continuing committees serving this purpose. While the Select Committees may be entitled to the same information, this particular statute does not appear to require their inclusion as recipient of timely reports on each new operation covered by Section 662.

(c) Who is to report


Section 662 requires the President to report, but there is nothing to prevent him from delegating his authority and responsibility in that regard, as he has done, to the Director of CIA. It may be better practice in the future to have the President, when he makes a written finding, delegate in writing to the Director the authority and responsibility to make the required reports.

(d) Form and content of reports

The reports have to provide "a description and scope" of each operation. According to the legislative history, and as has been accepted in practice, the reports may be oral. Also, in the process of the Congressional debates the words "detailed description of the nature and scope" were deliberately changed to allow latitude on the part of the President. (See Congressional Record of October 2, 1974 at S.18063-4).

(e) Record of reports

Apart from whatever record each recipient committee may make of each report, it will be good practice for the Director of CIA to provide a full record for the President of the time, nature and scope of each preliminary approach and ultimate report made pursuant to Section 662.

cc: William Colby ✓


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An act to amend the Foreign Assistance Act of 1961, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foreign Assistance Act of 1974".

(b) Section 112 of such Act is repealed.

LIMITING INTELLIGENCE ACTIVITIES

Sec. 23. Chapter 3 of part III of the Foreign Assistance Act of 1961, as amended by sections 23(a) and 24 of this Act, is further amended by adding at the end thereof the following new section:

"Sec. 681. LIMITATIONS UPON INTELLIGENCE ACTIVITIES.—(a) No funds appropriated under the authority of this or any other Act may be expended by or on behalf of the Central Intelligence Agency or any other agency of the United States Government for the conduct of operations in foreign countries pursuant to section 102(d)(5) of the National Security Act of 1947 (50 U.S.C. 303), other than operations intended solely for obtaining necessary intelligence. Notwithstanding the foregoing limitation, the President may authorize and direct that any operation in a foreign country be resumed, or that any other operation in a foreign country be initiated, and funds may be expended therefor, if, but not before, he (1) finds that such operation is important to the national security, and (2) transmits an appropriate report of his finding, together with an appropriate description of the nature and scope of such operation, to the committees of the Congress having jurisdiction to monitor and review the intelligence activities of the United States Government.

"(b) The provisions of subsection (a) of this section shall not apply during military operations by the United States under a declaration of war approved by the Congress or an exercise of powers by the President under the War Powers Resolution."

8 "SEC. 660. LIMITATION ON INTELLIGENCE ACTIVI-

9 TIES.— (a) No funds appropriated under the authority of this
10 or any other Act may be expended by or on behalf of the Cen-
11 tral Intelligence Agency for operations in foreign countries,
12 other than activities intended solely for obtaining necessary
13 intelligence, unless the President finds that each such opera-
14 tion is important to the national security of the United States
15 and reports, in a timely fashion, a description and scope of
16 such operation to the appropriate committees of the Con-
17 gress, including the Committee on Foreign Relations of the
18 United States Senate and the Committee on Foreign Affairs
19 of the United States House of Representatives.

20 " (b) The provisions of subsection (a) of this section
21 shall not apply during military operations initiated by the
22 United States under a declaration of war approved by the
23 Congress or an exercise of powers by the President under
24 the War Powers Resolution."

Sec. 27. The Foreign Assistance Act of 1961 is amended by adding at the end of part II the following new sections:

"SEC. 659. REIMBURSABLE DEVELOPMENT PROGRAMS.—The President is authorized to use up to \$2,000,000 of the funds made available for the purposes of this Act in each of the fiscal years 1975 and 1976 to work with friendly countries, especially those in which United States development programs have been concluded or those not receiving assistance under part I of this Act, in (1) facilitating open and fair access to natural resources of interest to the United States and (2) stimulation of reimbursable aid programs consistent with part I of this Act. Any funds used for purposes of this section may be used notwithstanding any other provision of this Act.

"SEC. 660. LIMITATION ON INTELLIGENCE ACTIVITIES.—(a) No funds appropriated under the authority of this or any other Act may be expended by or on behalf of the Central Intelligence Agency for operations in foreign countries, other than activities intended solely for obtaining necessary intelligence, unless and until the President finds that each such operation is important to the national security of the United States and reports, in a timely fashion, a description and scope of such operation to the appropriate committees of the Congress, including the Committee on Foreign Relations of the United States Senate and the Committee on Foreign Affairs of the United States House of Representatives.

"(b) The provisions of subsection (a) of this section shall not apply during military operations initiated by the United States under a declaration of war approved by the Congress or an exercise of powers by the President under the War Powers Resolution."

LIMITATION ON MILITARY ASSISTANCE AND EXCESS DEFENSE ARTICLES IN KOREA

Sec. 28. (a) The aggregate amount of—

(1) funds obligated or reserved for military assistance, including supply operations under chapter 2 of part II of the Foreign Assistance Act of 1961;

(2) the acquisition cost of excess defense articles, if any, ordered under part II of the Foreign Assistance Act of 1961 and not charged against appropriations for military assistance;

(3) credits, including participations in credits, extended pursuant to section 23 of the Foreign Military Sales Act; and

(4) the principal amount of loans guaranteed pursuant to section 24(a) of the Foreign Military Sales Act;

with respect to South Korea shall not exceed \$145,000,000 for fiscal year 1975 until the President submits a report to the Congress after the date of enactment of this Act stating that the government of South Korea is making substantial progress in the observance of internationally recognized standards of human rights.

(b) After the submission of the report under subsection (a), the aggregate amount described in paragraphs (1), (2), (3), and (4) of such subsection with respect to South Korea shall not exceed \$165,000,000 for fiscal year 1975.

(c) The provisions of section 506 and section 614 of the Foreign Assistance Act of 1961, or of any other law, may not be used to exceed the limitation under subsection (a) or (b).

LIMITATION ON ASSISTANCE FOR INDIA

Sec. 29. The total amount of assistance provided under the Foreign Assistance Act of 1961 and of credit sales made or guaranteed under the Foreign Military Sales Act for India shall not exceed \$50,000,000 in fiscal year 1975.

that the C. Approved For Release 2008/03/05 : CIA-RDP84-00709R000400040001-4
may not receive from the United States Bank any funds provided to
back by the United States.

MR. MORGAN. Mr. Chairman, I now
that all debate on the bill and all
amendments thereto cease at 7 o'clock.
The motion was agreed to.

POINT OF ORDER

MR. CARNEY of Ohio. Mr. Chairman, I
a point of order.

THE CHAIRMAN. The gentleman will
be.

MR. CARNEY of Ohio. What about
of us who have had amendments at
desk all day?

THE CHAIRMAN. Have they been
in the Record?

MR. CARNEY of Ohio. No; but I gave
in to the desk today.

THE CHAIRMAN (Mr. Parks of Illi-
nois). If the amendments are printed in
the Record, under the Rules of the
House the proponents will be entitled to
minutes of debate.

Members standing at the time the
motion was made will be recognized for
one minute each.

The Chair recognizes the gentleman
from New York (Mr. HOLTZMAN).

AMENDMENT OFFERED BY MR. HOLTZMAN

MR. HOLTZMAN. Mr. Chairman, I
offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HOLTZMAN:
On 23, line 14, strike out "important to
national security" and insert in lieu
thereof "vital to the national defense".

MR. HOLTZMAN asked and was
given permission to revise and extend
his remarks.)

MR. HOLTZMAN. Mr. Chairman, the
purpose of this amendment is very sim-
ple. It is designed to enlarge congres-
sional control over the Central Intel-
ligence Agency's non-intelligence-gath-
ering functions.

The provisions of this bill relating to
the CIA constitute a major improvement
over the situation in the past. This bill
permits the CIA to engage in covert ac-
tivities only after the President reports
out these activities to the House and
Senate committees dealing with foreign
affairs and the House and Senate Armed
Services Committees.

Despite the improvement, I still think
the provisions are seriously deficient.
This bill authorizes CIA activities de-
signed to subvert or undermine foreign
governments so long as they are "im-
portant to national security." This
word is so broad as to be almost mean-
ingless. Thus, the President is empow-
ered to authorize CIA actions to subvert
foreign governments basically when he
thinks it would be desirable. It seems to
me, however, that the circumstances in
which the CIA ought ever to be permitted
to subvert a foreign government with
which we are at peace should be very
limited at best.

My amendment would permit the CIA
to engage in non-intelligence-gathering
activities only when such activities are
"vital to our national defense." My
amendment would thus limit the in-
stances in which the CIA would run
afoul of international law, and also we

foreign policy is in essence being creat-
ed by the President, the CIA, and four
committees of Congress.

I urge support of my amendment.

THE CHAIRMAN. The time of the
gentleman has expired.

The Chair recognizes the gentleman
from Michigan (Mr. NEDZI).

MR. NEDZI. Mr. Chairman, I rise in
opposition to the amendment.

We have in this bill a provision re-
straining certain operations of the CIA
to those "important to the national
security" and in timely fashion they are
obliged to bring to the notice of Congress
any activities which the CIA may be
engaged in which are important to the
national security. I submit that is a very
important statutory provision and a
departure from what the situation is at
the present time. When we speak about
matters "vital to the national defense"
we are then it seems to me restraining
the agency from perhaps operating in
antidrug programs or the agency could be
prevented from conducting antiterrorist
activities programs, among others. In
my judgment it just is not the kind of
constraint that it is desirable to apply
with respect to the President and the
CIA. The language offered has broad
implications and should not be approved
without careful and detailed considera-
tion by appropriate committees prior to
bringing the matter before the entire
House. Under circumstances of very
limited debate.

While I have a moment I would like
for the purpose of clarification inquire
of the chairman what his interpretation
of the language in the bill relating to re-
porting to Congress by the CIA is, par-
ticularly as it relates to the understand-
ing we reached with the Secretary of
State and the Director of Central Intel-
ligence.

MR. MORGAN. If the gentleman will
yield, it is my belief that the amend-
ment contained in the committee bill
carries out, and provides further statu-
tory basis for the implementation of, the
understanding to which the gentleman
has referred as it applies to the foreign
policy-related operations of the CIA.

THE CHAIRMAN. The Chair recog-
nizes the gentleman from Pennsylvania
(Mr. Morgan).

MR. MORGAN. Mr. Chairman, the
committee adopted an amendment to
bring the CIA under more effective con-
gressional control and the author of the
amendment, the gentleman from Cali-
fornia (Mr. RYAN), is here. I yield to
him to speak in opposition to this
amendment.

MR. RYAN. Mr. Chairman, I oppose
this amendment for I think substantive
reasons. This was my amendment in the
committee and it was very carefully
worked out. We deal here with a very
sensitive area. It was my intention and
the intention of the committee to try
to bring the CIA under some kind of
jurisdiction by the Foreign Affairs Com-
mittees because obviously the decisions
of CIA have an enormous effect upon
our foreign affairs.

THE CHAIRMAN. The Chair recog-

(Mr. PARSONS).

MR. FRELINGHUYSEN. Mr. Chair-
man, I should like to speak in opposi-
tion to the amendment. In my opinion
we should have reservations about the
language in the committee bill with re-
spect to intelligence activities. And cer-
tainly we would be very unwise to change
the language of "important to the na-
tional security" to "vital to national de-
fense." This would preclude many activi-
ties which might well be needed in our
own interest. I hope this amendment
is soundly defeated.

THE CHAIRMAN. The Chair recognizes
the gentleman from Florida (Mr. HALEY).

(By unanimous consent, Mr. HALEY
yielded his time to Mr. Morgan.)

MR. MORGAN. Mr. Chairman, I yield
to the gentleman from California (Mr.
RYAN).

MR. RYAN. Mr. Chairman, I was about
to say that present language in this bill
is very carefully drawn to derive the
maximum amount of support from the
various elements involved. If we can get
this language through for those who are
interested in having some kind of closer
supervision for the CIA activities, this
particular amendment is one which
members of the committee think will
pass and which we would be able to have
signed. Without this particular language
I think we will have serious problems
with supervision of the CIA by the For-
eign Affairs Committee.

I am concerned about the manner in
which this particular subject is ap-
proached. On the one hand we have to
be careful and delicate and on the other
hand we do need jurisdiction.

MR. Chairman, I oppose the amend-
ment of the gentleman from New York
because I believe that the language we
have now is as strong as we can get at
this particular time.

THE CHAIRMAN. The question is on
the amendment offered by the gentle-
woman from New York (Ms. HOLTZ-
MAN).

The amendment was rejected.

THE CHAIRMAN. The Chair recog-
nizes the gentleman from Pennsylvania
(Mr. Dent).

MR. DENT. Mr. Chairman, I do not
have an amendment, but I would like to
say that I intend to vote against this
legislation. I intend to vote against it for
many reasons; particularly so because we
now owe \$503 billion. When we started
this game of Godfather to all the world,
we owed \$4 billion. The interest alone on
our debt is as great as the budget was in
1940. There is no way under the Sun that
this Nation can possibly grow all the
food for the world, provide all the guns
for the world, provide all the machinery
for the world, and then provide a mar-
ketplace for all the world's goods.

We are as poor as any nation we are
helping, when we consider the kind of
life that we have become accustomed to
with our standard of living. If we really
want to help some nation that is in emi-
nent danger of collapse, one might sug-
gest that we help the poverty-stricken
country of Italy.

We sell this legislation many times

Rules of the House of Representatives

Page R6

SPECIAL OVERSIGHT FUNCTIONS

3. (a) The Committee on Armed Services shall have the function of reviewing and studying, on a continuing basis, all laws, programs, and Government activities dealing with or involving international arms control and disarmament and the education of military dependents in schools.

(b) The Committee on the Budget shall have the function of—

(1) making continuing studies of the effect on budget outlays of relevant existing and proposed legislation, and reporting the results of such studies to the House on a recurring basis; and

(2) requesting and evaluating continuing studies of tax expenditures, devising methods of coordinating tax expenditures, policies, and programs with direct budget outlays, and reporting the results of such studies to the House on a recurring basis.

(c) The Committee on Education and Labor shall have the function of reviewing, studying, and coordinating, on a continuing basis, all laws, programs, and Government activities dealing with or involving domestic educational programs and institutions and programs of student assistance, which are within the jurisdiction of other committees.

(d) The Committee on Foreign Affairs shall have the function of reviewing and studying, on a continuing basis, all laws, programs, and Government activities dealing with or involving customs administration, intelligence activities relating to foreign policy, international financial and monetary organizations, and international fishing agreements.

94TH CONGRESS
1ST SESSION

H. R. 8193

IN THE HOUSE OF REPRESENTATIVES

JUNE 25, 1975

Mr. ADDABO introduced the following bill; which was referred to the Committee on International Relations

A BILL

To amend the Foreign Assistance Act of 1961 to require that the President's report to the Congress with respect to the use of funds by the Central Intelligence Agency for any nonintelligence gathering operation in a foreign country be made in writing prior to the commencement of such operation.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That section 662 (a) of the Foreign Assistance Act of 1961
- 4 (22 U.S.C. 2422 (a)) is amended by striking out "reports,
- 5 in a timely fashion," and inserting in lieu thereof "reports
- 6 in writing, in a timely fashion prior to the commencement
- 7 of such operation,".

94TH CONGRESS
1st Session

H. R. 8193

A BILL

To amend the Foreign Assistance Act of 1961 to require that the President's report to the Congress with respect to the use of funds by the Central Intelligence Agency for any nonintelligence gathering operation in a foreign country be made in writing prior to the commencement of such operation.

By Mr. ADDABO

JUNE 25, 1975

Referred to the Committee on International Relations

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cc: DDO
DDI
DDA
DDS&T
D/DCI/NIO
D/DCI/IC

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Original - OGC Subj: DCI

1 - JSW signer

1 - Chrono

OGC 75-3313

11 September 1975

MEMORANDUM FOR: Director of Central Intelligence

SUBJECT: Responsibilities of the Director of Central
Intelligence

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OGC 75-3450

22 September 1975

Honorable Richard L. Thornburgh
Assistant Attorney General
Criminal Division
Department of Justice
Washington, D. C. 20530

Dear Dick:

I am enclosing a basic review of the Agency's authorities to collect foreign narcotics intelligence. This is in the form of a paper from this Office to the Deputy Director for Operations, CIA, entitled "Legal Authority for the Central Intelligence Agency Narcotics Intelligence Collection Programs" and dated 6 August 1975. Also enclosed is a supplement to that paper dated 8 September 1975.

I am aware that attorneys in your Division have been interested in this subject and hopefully this will be of some interest to them. Furthermore, I would very much appreciate any views or comments you may have on our view of Agency authority in this area.

Sincerely,



John S. Warner
General Counsel

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Enclosures
Under Separate Cover
CIA TS#205702
CIA TS#205705

OGC: JSW: sin
Distribution:
1 - DDO
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THE SECRETARY OF STATE

WASHINGTON

06075-14543

12/8/75

P.R.

November 28, 1975

☒ OCC SUBJ: PASSPORTS & VISAS

MEMORANDUM TO HEADS OF ALL
FEDERAL DEPARTMENTS AND AGENCIES

President Ford's Memorandum of November 20, 1975 instructs you to advise the Department of State when a host country refuses, on the basis of race, color, religion, national origin, sex, or age, to grant a visa to an employee selected for overseas assignment.

I ask that such notifications be addressed to me personally, so that I can assure that appropriate action through diplomatic channels is taken by this Department.

Henry A. Kissinger

Henry A. Kissinger

*D/Per has action. Please file
these and can assist if asked.
HAK*

THE WHITE HOUSE

WASHINGTON

November 20, 1975

MEMORANDUM FOR THE HEADS OF

DEPARTMENTS AND AGENCIES

The purpose of this Memorandum is to underscore the applicability of Executive Order 11478, the Equal Employment Opportunity Act of 1972 (P.L. 92-261); the Age Discrimination in Employment Act of 1967 as amended by P.L. 92-269; and pursuant regulations to all Federal personnel actions, including those which involve overseas assignment of employees of Federal agencies to foreign countries which have adopted exclusionary policies based on a person's race, color, religion, national origin, sex or age.

In making selections for overseas assignment, the possible exclusionary policies of the country to which an applicant or employee is to be assigned must not be a factor in any part of the selection process of a Federal agency. United States law must be observed and not the policy of the foreign nation. Individuals, therefore, must be considered and selected solely on the basis of merit factors without reference to race, color, religion, national origin, sex or age. Persons must not be "selected out" at any stage of the selection process because their race, color, religion, national origin, sex or age does not conform to any formal or informal requirements set by a foreign nation. No agency may list in its job description circulars that the host country has an exclusionary entrance policy or that a visa is required.

If a host country refuses, on the basis of exclusionary policies related to race, color, religion, national origin, sex or age, to grant a visa to an employee who has been selected by a Federal agency for an overseas assignment, the employing agency should advise the Department of State of this act. The Department will take appropriate action through diplomatic channels to attempt to gain entry for the individual.

The Civil Service Commission shall have the responsibility for insuring compliance with this Memorandum. In order to ensure that selections for overseas assignments are made in compliance with law, Executive Order, and merit system requirements, each agency having positions overseas must:

- (1) review its process for selection of persons for overseas assignments to assure that it conforms in all respects with law, Executive Order, and merit system requirements; and
- (2) within 60 days of the date of this Memorandum, issue appropriate internal policy guidance so that all selecting officials will understand clearly their legal obligation in this regard. The guidance must make clear that exclusionary policies of foreign countries based on race, color, religion, national origin, sex or age must not be considerations in the selection process for Federal positions. A copy of each agency's guidance in this regard should be sent to the Assistant Executive Director, U.S. Civil Service Commission, 1900 E Street, NW., Washington, D.C. 20415.

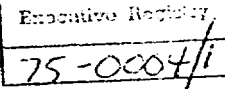
Harold E. Ford

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DIRECTOR OF CENTRAL INTELLIGENCE DETERMINATION

ASPECTS OF INTELLIGENCE SOURCES AND METHODS
THAT MUST BE PROTECTED FROM UNAUTHORIZED DISCLOSURE

1. By virtue of the authorities vested in me as Director of Central Intelligence, pursuant to Section 102(d)(3) of the National Security Act of 1947, as amended, and Section 6 of the Central Intelligence Act of 1949, as amended, by virtue of the authorities delegated to me by the National Security Council, pursuant to the authorities of Section 102(d) of the National Security Act of 1947, as amended, and by virtue of the authorities vested in me as head of an agency of the United States Government, I do hereby determine that the attached list entitled "Aspects of Intelligence Sources and Methods of the Central Intelligence Agency that Require Protection from Unauthorized Disclosure" constitutes the aspects of intelligence sources and methods of the Central Intelligence Agency which must be protected from unauthorized disclosure.
2. If any aspect contained in said list is held invalid, all valid aspects that are severable from the invalid aspect remain in effect. If an aspect is held invalid in one or more of its applications, the aspect remains in effect in all valid applications that are severable from the invalid application or applications.
3. All documents originated within the Central Intelligence Agency which contain any information described in the aspects of intelligence sources and methods as enumerated in said list or which will be subsequently authorized by me for addition to said list will be marked with a warning to indicate same.
4. For matters other than those related to the Freedom of Information Act and Executive Order 11652, I hereby delegate to the Deputy Directors for Administration, Intelligence, Operations and Science and Technology, Inspector General, General Counsel, Legislative Counsel and Comptroller the authority to authorize disclosure of any aspect or part thereof contained

in said list that is within their substantive areas of responsibility where such disclosure will not damage or put in jeopardy Agency employees, agents, informants, activities, operations or interests. This delegation may be redelegated to the immediate subordinates of these Deputy Directors and Heads of Independent Offices. Nothing in this delegation is meant to conflict with my delegation of 6 February 1975 with respect to the Freedom of Information Act or Executive Order 11652.

5. Information relating to any Agency activity or operation which violates a U.S. statute, Executive order or Presidential order or is without authority of law cannot be withheld irrespective of any otherwise apparent coverage that might be afforded by any aspect contained in said list.

6. Procedures necessary to implement this determination will be promulgated, pursuant to the authority contained herein, as a regulation of the Central Intelligence Agency. I hereby authorize and direct the Deputy Director for Administration to approve and implement such regulation. I hereby assign the responsibility to the Deputy Director for Administration to periodically review said list to develop any new aspects or to delete aspects no longer necessary. The results of said review as well as any aspects identified requiring my immediate attention will be forwarded to me for approval.

12 JAN 1976

Date



Director of Central Intelligence

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United States Department of Justice

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UNITED STATES ATTORNEY

EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA, VIRGINIA 22313 JWW:jg
Dec 1975

December 31, 1975

[redacted]
Central Intelligence Agency
Headquarters
Office of the General Counsel
Washington, D. C. 20505

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Re: John Doe #1
Case Presentation to United States Attorney,
Eastern District of Virginia

Dear [redacted]

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This letter will confirm your presentation in December 1975 to the United States Attorney's Office of an incident involving an Agency employee who was found to have stolen some ice cream from the stand of a blind man within our jurisdiction of the Eastern District of Virginia. You advised us that administrative action would be taken against the employee. We have designated this employee, age 34, as John Doe # 1. If necessary, we will be able to cross reference the actual name of the employee from a separate control sheet. This procedure will protect the identity of Agency employees. It is my understanding that routine cases having no security ramifications will be presented to my attention at the United States Attorney's Office. Those cases having facets involving Central Intelligence Agency Security will be brought directly to the attention of the Criminal Division, U. S. Department of Justice.

Very truly yours,

WILLIAM B. CUMMINGS
United States Attorney*Justin W. Williams*By: Justin W. Williams
Assistant United States Attorney

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